

AMENDED IN SENATE MARCH 7, 2011

**SENATE BILL**

**No. 46**

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**Introduced by Senator Correa**  
*(Coauthor: Assembly Member Smyth)*

December 9, 2010

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~~An act to add Section 53060.2 to the Government Code, relating to local government. An act to add and repeal Article 2.5 (commencing with Section 1050) of Chapter 1 of Division 4 of Title 1 of the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 46, as amended, Correa. Local government: compensation disclosure.

Existing law provides for the compensation of local government officers and employees, as specified.

~~This bill would require filers, as defined, to annually file a compensation disclosure form, as specified. This bill would require the Secretary of State to develop the form, which would provide for the disclosure of, among other things, salaries and stipends, automobile and equipment allowances, and incentive and bonus payments. This bill would also require a county, city, city and county, school district, special district, or joint powers agency that maintains an Internet Web site to post the information contained on the filed form on that Internet Web site, as specified. The bill would authorize a district attorney or any interested person to commence an action by mandamus to enforce the provisions of the bill, as specified. The duties imposed on local departmental agencies by the bill would create a state-mandated local program.~~

*This bill would, until January 1, 2019, require each public official, defined to mean a public official required to file a statement of economic interest pursuant to the Political Reform Act of 1974, to annually file a compensation disclosure form that provides compensation information for the preceding calendar year, as specified. The bill would specify that compensation disclosure forms are open to public inspection, as specified.*

*The bill would, until January 1, 2019, require each public agency, as defined, to post on that public agency's Internet Web site the information contained on the compensation disclosure form filed by a public official, and the written policy for the reimbursement of actual and necessary expenses.*

*The bill would require the Controller, on or before October 1, 2011, to adopt regulations for the implementation of these requirements, including the format of the compensation disclosure form. The bill would also require the Controller, on or before July 1, 2012, to recommend to the Governor and the Legislature methods for compiling the information contained on public officials' compensation disclosure forms in one or more publicly accessible databases, including specific proposals for establishment, operation, oversight, and funding, as specified.*

*The bill would also authorize a district attorney or any interested person to commence an action by mandamus to enforce the provision of the bill, as specified.*

*The duties imposed on local agencies by the bill would create a state-mandated local program.*

*The bill would express a legislative finding and declaration that it addresses the right of access by the people of the state to information concerning the conduct of the people's business.*

*The bill would express a legislative finding and declaration that, to ensure the statewide integrity of local government, disclosure of compensation paid filers is an issue of statewide concern and not a municipal affair and that, therefore, all cities, including charter cities, would be subject to the provisions of the bill.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,*

reimbursement for those costs shall be made pursuant to these statutory provisions.

*This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 2.5 (commencing with Section 1050) is  
2 added to Chapter 1 of Division 4 of Title 1 of the Government  
3 Code, to read:

4

5 Article 2.5. DISCLOSURE OF PUBLIC OFFICIALS'  
6 COMPENSATION  
7

8 1050. As used in this section, the following terms have the  
9 following meanings:

- 10 (a) "City" means a general law city or a charter city.
- 11 (b) "Local agency" means any county, city, special district, or  
12 school district, or any other local or regional political subdivision,  
13 including a joint powers agency formed pursuant to the Joint  
14 Exercise of Powers Act (Chapter 5 (commencing with Section  
15 6500) of Division 7).
- 16 (c) "Public agency" means any state agency or local agency.
- 17 (d) "Public official" means any person, except a candidate for  
18 office, who is required to file a statement of economic interests  
19 pursuant to Section 87200.
- 20 (e) "School district" means a school district, community college  
21 district, county board of education, or county superintendent of  
22 schools.
- 23 (f) "Special district" means any agency of the state established  
24 for the local performance of governmental or proprietary functions  
25 within limited boundaries.
- 26 (g) "State agency" means every state office, department,  
27 division, bureau, board, or commission, or the Legislature.
- 28 1051. (a) Each public official shall annually file a  
29 compensation disclosure form that provides compensation  
30 information for the preceding calendar year. A public official shall  
31 file the compensation disclosure form with the same office that

1 receives his or her statement of economic interest pursuant to  
2 Section 87500. The annual deadline for filing a compensation  
3 disclosure form shall be the same as the deadline for filing annual  
4 statements of economic interest, pursuant to Sections 87203 and  
5 87302.

6 (b) Nothing in this article shall be construed to prevent a public  
7 agency from adopting more restrictive procedures and standards  
8 relating to the disclosure of compensation information.

9 (c) If a public agency maintains an Internet Web site, it shall  
10 post the following information on its Internet Web site:

11 (1) The information contained on the compensation disclosure  
12 form filed by a public official.

13 (2) The written policy for the reimbursement of actual and  
14 necessary expenses adopted pursuant to Section 53232.2, if  
15 applicable.

16 1052. As an alternative to Section 1051, if a public agency  
17 maintains an Internet Web site, it may compile the information  
18 required by Section 1053 for each of its public officials and post  
19 that information on its Internet Web site. The information for each  
20 of those public officials shall be available upon request pursuant  
21 to Section 1055.

22 1053. (a) On or before October 1, 2011, the Controller shall  
23 adopt regulations pursuant to Chapter 3.5 (commencing with  
24 Section 11340) of Part 1 of Division 3 of Title 2 for the  
25 implementation of this article, including the format of the  
26 compensation disclosure form.

27 (b) The compensation disclosure form shall provide for the  
28 disclosure of each of the following:

29 (1) The public agency's cost for the public official's annual  
30 salary or stipend.

31 (2) The public agency's cost to provide benefits to the public  
32 official, including but not limited to, deferred compensation or  
33 defined benefit plans.

34 (3) The public agency's reimbursement payments to the public  
35 official for actual and necessary expenses incurred on behalf of  
36 the local agency in the performance of official duties.

37 (4) The public agency's cost to provide the public official with  
38 any other monetary or nonmonetary perquisites of office.

39 (5) The date on which the public official completed the training  
40 required by Section 8956, Article 12 (commencing with Section

1 11146) of Chapter 1 of Part 1 of Division 3 of Title 2, or Article  
2 2.4 (commencing with Section 53234) of Chapter 2 of Part 1 of  
3 Division 2 of Title 5, if applicable.

4 1054. The information disclosed pursuant to Section 1053 shall  
5 also include any amounts received by a public official as a result  
6 of that person's membership with, or employment by, any other  
7 public agency if the membership of the other public agency's  
8 governing body is sufficient in number to constitute a quorum or  
9 a majority of the governing body membership of the first public  
10 agency.

11 1055. Every compensation disclosure form filed pursuant to  
12 this article shall be open for public inspection and reproduction  
13 during regular business hours, commencing as soon as practicable,  
14 but not later than the second business day following the day on  
15 which it was received. No conditions shall be imposed upon a  
16 person desiring to inspect or reproduce a compensation disclosure  
17 form filed pursuant to this article, nor shall any information or  
18 identification be required from the person. Copies shall be provided  
19 at a charge not to exceed ten cents (\$0.10) per page. In addition,  
20 a retrieval fee not to exceed five dollars (\$5) per request may be  
21 charged for copies of reports and statements that are more than  
22 five years old. A request for more than one compensation  
23 disclosure form at the same time shall be considered a single  
24 request.

25 1056. (a) The district attorney or any interested person may  
26 commence an action by mandamus or injunction to compel a public  
27 official or public agency to comply with the requirements of this  
28 article. Nothing in this article shall be construed to prevent a  
29 public official or public agency from curing or correcting an action  
30 challenged pursuant to this article.

31 (b) Prior to any action being commenced pursuant to this article,  
32 the district attorney or interested person shall make a demand of  
33 the public official or public agency to cure or correct the action  
34 alleged to have been taken in violation of this article. The demand  
35 shall be in writing and clearly describe the nature of the alleged  
36 violation.

37 (c) Within 30 days of receipt of the demand, the public official  
38 or public agency shall cure or correct the alleged violation and  
39 notify the demanding party in writing of the decision to cure or

1 correct the alleged violation or inform the demanding party in  
2 writing of its decision not to cure or correct the alleged violation.

3 (d) Within 15 days of receipt of the written notice of the decision  
4 to cure or correct an alleged violation, or not to cure or correct,  
5 or within 15 days of the expiration of the 30-day period to cure or  
6 correct, whichever is earlier, the demanding party shall be required  
7 to commence the action pursuant to this article or thereafter be  
8 barred from commencing the action.

9 (e) If the public official or public agency takes no action within  
10 the 30-day period, the inaction shall be deemed a decision not to  
11 cure or correct the alleged violation, and the 15-day period to  
12 commence the action described in subdivision (d) shall commence  
13 to run the day after the 30-day period to cure or correct expires.

14 (f) During any action seeking a judicial determination pursuant  
15 to this article if the court determines, pursuant to a showing that  
16 an alleged violation has been cured or corrected by a subsequent  
17 action, the action filed pursuant to this article shall be dismissed  
18 with prejudice.

19 1057. (a) On or before July 1, 2012, the Controller shall  
20 recommend to the Governor and the Legislature methods for  
21 compiling the information contained on public officials'  
22 compensation disclosure forms in one or more publicly accessible  
23 databases. These recommendations shall include specific proposals  
24 for establishment, operation, oversight, and funding.

25 (b) On or before January 1, 2018, the Bureau of State Audits  
26 shall report to the Governor and the Legislature regarding the  
27 implementation and effectiveness of this article.

28 1058. This article shall remain in effect only until January 1,  
29 2019, and as of that date is repealed, unless a later enacted statute,  
30 that is enacted before January 1, 2019, deletes or extends that  
31 date.

32 SEC. 2. The Legislature finds and declares that the fiscal  
33 integrity and stability of local governmental agencies in this state,  
34 including charter cities, directly affects the long-term well-being  
35 of all the residents of this state. The public perception of efficient,  
36 transparent, and accountable governmental structures in public  
37 agencies in California affects the likelihood of businesses locating  
38 to or remaining in the state. Therefore, the Legislature finds and  
39 declares that to ensure the statewide integrity of state agencies  
40 and local agencies, the disclosure of compensation paid to public

1 *officials is an issue of statewide concern and not a municipal affair,*  
2 *as that term is used in Section 5 of Article XI of the California*  
3 *Constitution. Therefore, this act shall apply to all cities, including*  
4 *charter cities.*

5 *SEC. 3. If the Commission on State Mandates determines that*  
6 *this act contains costs mandated by the state, reimbursement to*  
7 *local agencies and school districts for those costs shall be made*  
8 *pursuant to Part 7 (commencing with Section 17500) of Division*  
9 *4 of Title 2 of the Government Code.*

10 *SEC. 4. This act is an urgency statute necessary for the*  
11 *immediate preservation of the public peace, health, or safety within*  
12 *the meaning of Article IV of the Constitution and shall go into*  
13 *immediate effect. The facts constituting the necessity are:*

14 *Maintaining the public's trust in the efficiency, transparency,*  
15 *and accountability of their public agencies is essential to the*  
16 *operation of governments that protect the public peace, health,*  
17 *and safety of all Californians. It is essential that measures which*  
18 *protect the public trust take effect immediately.*

19 ~~SECTION 1. Section 53060.2 is added to the Government~~  
20 ~~Code, to read:~~

21 ~~53060.2. (a) For purposes of this section, the following terms~~  
22 ~~have the following meanings:~~

23 ~~(1) "City" means a general law city or a charter city.~~

24 ~~(2) "Filer" means both of the following:~~

25 ~~(A) An elected or appointed officer of a county, city, city and~~  
26 ~~county, school district, special district, or joint powers agency~~  
27 ~~formed pursuant to the Joint Exercise of Powers Act (Chapter 5~~  
28 ~~(commencing with Section 6500) of Division 7 of Title 1), who is~~  
29 ~~required to file a statement of economic interests pursuant to~~  
30 ~~Section 87200.~~

31 ~~(B) Any person who is a superintendent, deputy superintendent,~~  
32 ~~assistant superintendent, associate superintendent, community~~  
33 ~~college president, community college vice president, community~~  
34 ~~college deputy vice president, general manager, city manager,~~  
35 ~~county administrator, other similar chief administrative officer, or~~  
36 ~~chief executive officer of a local agency who is required to file a~~  
37 ~~statement of economic interests pursuant to Chapter 7 (commencing~~  
38 ~~with Section 87100) of Title 9.~~

1     ~~(3) “School district” means a school district, community college~~  
2     ~~district, county board of education, and county superintendent of~~  
3     ~~schools.~~

4     ~~(b) Each filer shall annually file a compensation disclosure form~~  
5     ~~that provides compensation information for the preceding year,~~  
6     ~~pursuant to this section. The annual filing deadline for a~~  
7     ~~compensation disclosure form shall be the same as the filing~~  
8     ~~deadline established for annual statements of economic interest,~~  
9     ~~pursuant to Sections 87203 and 87302.~~

10    ~~(e) (1) A filer shall file his or her compensation disclosure form~~  
11    ~~with the same office of the local agency that receives that filer’s~~  
12    ~~statement of economic interest pursuant to Section 87500.~~

13    ~~(2) As an alternative to paragraph (1), if a county, city, city and~~  
14    ~~county, school district, special district, or joint powers agency~~  
15    ~~maintains an Internet Web site, it may compile the information~~  
16    ~~required by subdivision (d) for each filer and post that information~~  
17    ~~on the Internet Web site. The information for each filer shall be~~  
18    ~~available upon request pursuant to subdivision (f).~~

19    ~~(3) If the county, city, city and county, school district, special~~  
20    ~~district, or joint powers agency maintains an Internet Web site, it~~  
21    ~~shall post the following information on that Internet Web site:~~

22    ~~(A) The information contained on the filed compensation~~  
23    ~~disclosure form.~~

24    ~~(B) The written policy for the reimbursement of actual and~~  
25    ~~necessary expenses adopted pursuant to Section 53232.2, if~~  
26    ~~applicable.~~

27    ~~(d) The Secretary of State shall develop the compensation~~  
28    ~~disclosure form. When developing the compensation disclosure~~  
29    ~~form, the Secretary of State shall review and consider whether the~~  
30    ~~amounts listed in the Internal Revenue Service Form W-2 for the~~  
31    ~~purposes of calculating Medicare taxes are sufficient or, in the~~  
32    ~~case of a contractor, the amounts listed in the Internal Revenue~~  
33    ~~Services Form 1099. If the filer is a contractor, the compensation~~  
34    ~~disclosure form shall require disclosure of the contract’s~~  
35    ~~compensation provisions. The compensation disclosure form shall~~  
36    ~~provide for the disclosure of each of the following:~~

37    ~~(1) Annual salary or stipend.~~

38    ~~(2) Local agency payments to the filer’s deferred compensation~~  
39    ~~or defined benefit plans.~~

40    ~~(3) Automobile and equipment allowances.~~

1 ~~(4) Supplemental incentive and bonus payments.~~

2 ~~(5) Local agency payments to the filer that are in excess of the~~  
3 ~~standard benefits that the local agency offers for all other~~  
4 ~~employees.~~

5 ~~(e) The information disclosed pursuant to subdivision (d) shall~~  
6 ~~also include any amounts received by a filer as a result of~~  
7 ~~membership with, or employment by, any local agency, municipal~~  
8 ~~corporation, public benefit corporation, or community~~  
9 ~~redevelopment agency, if the membership of the filer's governing~~  
10 ~~body is sufficient in number to constitute a quorum or a majority~~  
11 ~~of the governing body membership of the local agency, municipal~~  
12 ~~corporation, public benefit corporation, or community~~  
13 ~~redevelopment agency.~~

14 ~~(f) Every compensation disclosure form filed pursuant to this~~  
15 ~~section shall be open for public inspection and reproduction during~~  
16 ~~regular business hours, commencing as soon as practicable, but~~  
17 ~~not later than the second business day following the day on which~~  
18 ~~it was received. No conditions shall be imposed upon a person~~  
19 ~~desiring to inspect or reproduce a compensation disclosure form~~  
20 ~~filed pursuant to this section, nor shall any information or~~  
21 ~~identification be required from the person. Copies shall be provided~~  
22 ~~at a charge not to exceed ten cents (\$0.10) per page. In addition,~~  
23 ~~a retrieval fee not to exceed five dollars (\$5) per request may be~~  
24 ~~charged for copies of reports and statements that are more than~~  
25 ~~five years old. A request for more than one compensation~~  
26 ~~disclosure form at the same time shall be considered a single~~  
27 ~~request.~~

28 ~~(g) (1) The district attorney or any interested person may~~  
29 ~~commence an action by mandamus or injunction to compel a filer,~~  
30 ~~county, city, city and county, school district, special district, or~~  
31 ~~joint powers agency to comply with the requirements of this~~  
32 ~~section. Nothing in this section shall be construed to prevent a~~  
33 ~~filer, county, city, city and county, school district, special district,~~  
34 ~~or joint powers agency from curing or correcting an action~~  
35 ~~challenged pursuant to this section.~~

36 ~~(2) Prior to any action being commenced pursuant to this~~  
37 ~~subdivision, the district attorney or interested person shall make~~  
38 ~~a demand of the filer, county, city, city and county, school district,~~  
39 ~~special district, or joint powers agency to cure or correct the action~~  
40 ~~alleged to have been taken in violation of this section. The demand~~

1 shall be in writing and clearly describe the nature of the alleged  
2 violation.

3 ~~(3) Within 30 days of receipt of the demand, the filer, county,~~  
4 ~~city, city and county, school district, special district, or joint powers~~  
5 ~~agency shall cure or correct the alleged violation and notify the~~  
6 ~~demanding party in writing of the decision to cure or correct the~~  
7 ~~alleged violation or inform the demanding party in writing of its~~  
8 ~~decision not to cure or correct the alleged violation.~~

9 ~~(4) Within 15 days of receipt of the written notice of the decision~~  
10 ~~to cure or correct an alleged violation, or not to cure or correct, or~~  
11 ~~within 15 days of the expiration of the 30-day period to cure or~~  
12 ~~correct, whichever is earlier, the demanding party shall be required~~  
13 ~~to commence the action pursuant to this subdivision or thereafter~~  
14 ~~be barred from commencing the action.~~

15 ~~(5) If the filer, county, city, city and county, school district,~~  
16 ~~special district, or joint powers agency takes no action within the~~  
17 ~~30-day period, the inaction shall be deemed a decision not to cure~~  
18 ~~or correct the alleged violation, and the 15-day period to commence~~  
19 ~~the action described in paragraph (1) shall commence to run the~~  
20 ~~day after the 30-day period to cure or correct expires.~~

21 ~~(6) During any action seeking a judicial determination pursuant~~  
22 ~~to this subdivision if the court determines, pursuant to a showing~~  
23 ~~that an alleged violation has been cured or corrected by a~~  
24 ~~subsequent action, the action filed pursuant to this subdivision~~  
25 ~~shall be dismissed with prejudice.~~

26 ~~SEC. 2.— In enacting this act, the Legislature finds and declares~~  
27 ~~that the disclosure of compensation paid to filers furthers the intent~~  
28 ~~and purposes of Section 3 of Article I of the California Constitution~~  
29 ~~which declares that the people have the right of access to~~  
30 ~~information concerning the conduct of the people's business.~~

31 ~~SEC. 3.— The Legislature finds and declares that the fiscal~~  
32 ~~integrity and stability of local governmental agencies in this state,~~  
33 ~~including charter cities, has a direct impact on the long-term~~  
34 ~~well-being of all the residents of this state. The likelihood of~~  
35 ~~businesses locating to or staying in the state is affected by the~~  
36 ~~perception of a functioning, transparent, and practical governmental~~  
37 ~~structure in the local governmental bodies in California. Therefore,~~  
38 ~~the Legislature finds and declares that to ensure the statewide~~  
39 ~~integrity of local government, the disclosure of compensation paid~~  
40 ~~to filers is an issue of statewide concern and not a municipal affair;~~

1 as that term is used in Section 5 of Article XI of the California  
2 Constitution. Therefore, this act shall apply to all cities, including  
3 charter cities.

4 ~~SEC. 4. If the Commission on State Mandates determines that~~  
5 ~~this act contains costs mandated by the state, reimbursement to~~  
6 ~~local agencies and school districts for those costs shall be made~~  
7 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
8 ~~4 of Title 2 of the Government Code.~~

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